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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,426

03/17/2004

Trevor Adrian

15474.3.1.1

3868

22913

7590

09/20/2006

WORKMAN NYDEGGER  
(F/K/A WORKMAN NYDEGGER & SEELEY)  
60 EAST SOUTH TEMPLE  
1000 EAGLE GATE TOWER  
SALT LAKE CITY, UT 84111

EXAMINER

LE, HUYEN D

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/802,426		ADRIAN, TREVOR	
	<b>Examiner</b>		<b>Art Unit</b>	
	Huyen Le		3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-10, 12-25, 27, 29-39 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 and 44 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8-10, 21-23, 25, 29-32, 34, 35, 37-39, 41-43 and 45 is/are rejected.
- 7) ☒ Claim(s) 4, 7, 24, 27, 33 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/23/06</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 8-10, 21-23, 25, 29-32, 34, 35, 37-39, 41, 42, 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardee (6,354,511).

The Hardee reference discloses a portable water heater comprising: a housing 12 having a plurality of walls; a fuel burner 72 configured to produce heat into the housing as fuel is burned, the fuel burner being independently operable; and one heat transfer conduit 50 fluidly connected to a water source, the heat transfer conduit being in thermal communication with the fuel burner 72 and configured to transfer the heat produced by the fuel burner to the water flowing through the heat transfer conduit 50 and to output heated water outside of the housing 12, wherein the fuel burner 72 is entirely outside of the heat transfer conduit 50.

Regarding claims 2, 22, the heat transfer conduit 50 comprises at least one coiled tube 54.

Regarding claims 3, 23, a portion of the coiled tubing 54 forms a cylindrical shaped member.

Art Unit: 3751

Regarding claims 6, 35, the housing 12 further comprises a plurality of plates 85,86, the plurality of plates being disposed about the heat transfer conduit 54 and the fuel burner 72 and spaced apart from the plurality of walls of the housing 12.

Regarding claims 8, 37, the heat transfer conduit 54 is fluidly connected to an intake conduit 48.

Regarding claims 9, 29, 38, the intake conduit 48 is connected to a pump 42 being sized and configured to pump water through the heat transfer conduit 54 with sufficient force to output heated water outside of the housing 12.

Regarding claim 10, 30, 39, the heat transfer conduit 54 is fluidly connected to an outlet conduit 36, the outlet conduit 52 terminating in a spray head 40 for producing a spray of water.

Regarding claim 31, one of the plurality of walls of housing comprises an upper surface 18 that is substantially planar which is capable of being a surface for heating items.

Regarding claim 41, the portable water heater comprises controls for incrementally controlling the flow of water through the heat transfer conduit; and a valve control assembly 25 for incrementally controlling each of the fuel burner 72.

Regarding claim 45, the fuel burner 72 is horizontally disposed in the housing 12 below the heat transfer conduit 50.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hardee (6,354,511) in view of Humphrey (1,618,434).

The Hardee reference discloses a housing having a top wall and a bottom wall, the top wall 18 having a plurality of opening.

Although the Hardee reference does not specifically disclose that the bottom wall having a plurality of opening, attention is directed to the Humphrey reference which teaches another water heater comprising a plurality 6 located at a bottom wall.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of opening on the bottom wall of the Hardee water heater in view of the teaching of the Humphrey reference for allowing air to flow around the fuel burner and through the housing.

#### ***Allowable Subject Matter***

5. Claims 12-20 and 44 are allowed.
6. Claims 4, 7, 24, 27, 33 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments on 06/23/2006 with respect to claims 1, 21 and 32 have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

September 12, 2006

  
Huyen Le  
Examiner  
Art Unit 3751